

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed April 9, 2008. Through this response, claims 1, 11-15, 20, 25, 35-39, and 44 have been amended; claims 10, 16-19, 21-24, 34, 40-43, and 45-48 have been canceled without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and pending claims 1-9, 11-15, 20, 25-33, 35-39, and 44 are respectfully requested.

I. Title Objection

The title of the disclosure has been objected to as not descriptive. Through this Response, Applicant has adopted the titled suggested in the Office Action. In view of that amendment, Applicant respectfully requests that the objection be withdrawn.

II. Claim Rejections - 35 U.S.C. § 102(b)

A. Statement of the Rejection

Claims 1, 4-6, 9, 25, 28-30, 33 and 48 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by RCAL as evidenced by Payne, Terry R. et al., Calendar Agents on the Semantic Web (May/June 2002) ("RCAL"). Applicant respectfully traverses this rejection. Applicant has canceled claim 48, thus rendering the rejection to this claim moot. Applicant has amended claims 1 and 25. Further, Applicant respectfully submits that claims 1, 4-6, 9, 25, 28-30 and 33 are allowable over RCAL.

B. Discussion of the Rejection

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

All pending, independent claims have the following or similar features

deploying process software for performing said calendaring and reminder activities, said deploying comprising:

installing said process software on at least one server;

identifying server addresses for users accessing said process software on said at least one server;

installing a proxy server if needed;

sending said process software to said at least one server and copying said process software to a file system of said at least one server;

sending the process software to at least a first computer client;

executing said process software on said first computer client;

integrating process software for performing said calendaring and reminder activities, said integrating comprising:

determining if said process software will execute on at least one

server;

identifying an address of said at least one server;

checking said at least one server for operating systems, applications, and version numbers for validation with said process software, and

identifying any missing software applications for said at least one server that are required for integration;

updating said at least one server with respect to any operating system and application that is not validated for said process software, and providing any of said missing software applications for said at least one server required for said integration;

identifying client addresses and checking computer clients for operating systems, applications, and version numbers for validation with said process software, and identifying any software applications missing from said computer clients that are required for integration;

updating said computer clients with respect to any operating system and application that is not validated for said process software, and providing any missing software application for said computer clients required for said integration;

installing said process software on said computer clients and said at least one server;

on demand sharing of process software for performing said calendaring and reminder activities, said on demand sharing comprising:

creating a transaction containing unique customer identification, requested service type, and service parameters;

sending said transaction to at least one main server;

querying said at least one main server about processing capacity associated with said at least one main server to help ensure availability of adequate resources for processing of said transaction; allocating additional processing capacity when additional capacity appears needed to process said transaction, said additional processing capacity being selected from the group of additional capacities consisting of central processing unit capacity, processor memory capacity, network bandwidth capacity, and storage capacity;

recording a plurality of usage measurements selected from the group of usage measurements consisting of network bandwidth, processor memory, storage, and central processing unit cycles;

summing said usage measurements;

acquiring at least one multiplicative value associated with said usage measurements and with unit costs;

recording any such acquired multiplicative value as an on demand charge to a requesting customer;

charging said on demand charge to said requesting customer's account if an account exists and if said requesting customer has selected a charge account payment method;

deploying, accessing, and executing process software for performing said calendaring and reminder activities, said deploying, accessing, and executing process software implemented through a virtual private network, the method comprising:

determining if a virtual private network is required;
checking for remote access to said virtual private network when it is required;
if said remote access does not exist, identifying a third party provider to provide secure, encrypted connections between a private network and remote users;
identifying said remote users; and
setting up a network access server operable for downloading and installing client software on desktop computers for remote access of said virtual private network;
accessing said process software;
transporting said process software to at least one remote user's desktop computer;
executing said process software on said at least one remote user's desktop computer;
determining if said virtual private network has a site-to-site configuration for providing site-to-site access, and if said virtual private network is not so available, installing equipment required to establish a site-to-site configuration for said virtual private network;
installing large scale encryption into said site-to-site virtual private network;
accessing said process software through said site-to-site configuration with large scale encryption; and
accessing said process software further comprises at least one of:

dialing into said network access server, and attaching directly via a
modem into said network access server, said modem being selected
from the group of modems consisting of telephone dial-up modems,
cable modems, DSL modems, and wireless modems.

The above-emphasized language was incorporated from dependent claims. The incorporated dependent claims were rejected under 35 U.S.C. 103(a) and at least RCAL and Official Notice were used to form the basis of the rejection of the dependent claims. The reasons why Official Notice is not proper are explained below. The Examiner felt that it was necessary to combine RCAL with at least Official Notice in order to reject the above-emphasized language, and that is a concession that the above-emphasized language is not disclosed by RCAL.

Independent Claims 1 and 25

Applicant respectfully submits that the rejections to claims 1 and 25 have been rendered moot. Additionally, Applicant respectfully submits that the art of record fails to disclose, teach, or suggest at least the above-emphasized claim features.

Because independent claims 1 and 25 are allowable over RCAL, dependent claims 4-6, 9, 28-30 and 33 are allowable as a matter of law for at least the reason that the dependent claims 4-6, 9, 28-30 and 33 contain all elements of their respective base claims. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

III. Claim Rejections - 35 U.S.C. § 103(a)

A. Rejection of Claims

Claims 2, 7-8, 26 and 31-32 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over RCAL and further in view of *Miller*, Michael Ten Minute Guide to Pocket PC 2002 (September 2002) (“*Miller*”). Applicant respectfully traverses these rejections. Applicant respectfully submits that claims 2, 7-8, 26 and 31-32 are allowable over RCAL and further in view of *Miller*.

Claims 3 and 27 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over RCAL and further in view of Cognitive Root’s Syncplicity system/method as evidenced by at least Syncplicity review (2001) (“Syncplicity”). Applicant respectfully traverses these rejections. Applicant respectfully submits that claims 3 and 27 are allowable over RCAL and further in view of Syncplicity.

Claims 10-16, 22-24, 34-40 and 46-47 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over RCAL and further in view of Official Notice. Applicant respectfully traverses these rejections. Applicant has canceled claims 10, 16, 22-24, 34, 40 and 46-47, and has amended claims 11-15 and 35-39, thus rendering the rejection to these claims moot. Further, Applicant respectfully submits that claims 11-15 and 35-39 are allowable over RCAL in view of Official Notice.

Claims 17-20 and 41-44 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over RCAL and further in view of *Abrams et al.* (“*Abrams*,” U.S. Pat. Pub. No. 2002/0166117). Applicant respectfully traverses these rejections. Applicant has canceled claims 17-19 and 41-43, and has amended claims 20 and 44, thus rendering the rejection to these claims moot. Further, Applicant respectfully submits that claims 20 and 44 are allowable over RCAL in view of Official Notice.

Claims 21 and 45 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over RCAL, further in view of *Abrams*, and further in view of Official Notice. Applicant respectfully traverses these rejections. Applicant has canceled claims 21 and 45, thus rendering the rejection to these claims moot.

B. Discussion of the Rejection

The U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquiries, also expressed in MPEP 2100-116, are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Applicant respectfully submits that a *prima facie* case of obviousness is not established using the art of record.

Dependent Claims 2, 7-8, 26 and 31-32

Applicant submits that as provided above, independent claims 1 and 25 are allowable over RCAL. In view of *Miller* not being applied against independent claims 1 and 25, Applicant respectfully submits that *Miller* does not remedy the above-described deficiencies of RCAL. Thus, for at least the reasons that dependent claims 2, 7-8, 26 and

31-32 incorporate the features of respective allowable claims 1 and 25, dependent claims 2, 7-8, 26 and 31-32 are allowable as a matter of law.

Dependent Claims 3 and 27

Applicant submits that as provided above, independent claims 1 and 25 are allowable over RCAL. In view of Syncplicity not being applied against independent claims 1 and 25, Applicant respectfully submits that Syncplicity does not remedy the above-described deficiencies of RCAL. Thus, for at least the reasons that dependent claims 3 and 27 incorporate the features of respective allowable claims 1 and 25, dependent claims 3 and 27 are allowable as a matter of law.

Dependent Claims 11-15 and 35-39

Applicant submits that as provided above, independent claims 1 and 25 are allowable over RCAL. In view of Official Notice not being applied against independent claims 1 and 25, Applicant respectfully submits that Official Notice does not remedy the above-described deficiencies of RCAL. Thus, for at least the reasons that dependent claims 11-15 and 35-39 incorporate the features of respective allowable claims 1 and 25, dependent claims 11-15 and 35-39 are allowable as a matter of law.

Dependent Claims 20 and 44

Applicant submits that as provided above, independent claims 1 and 25 are allowable over RCAL. In view of *Abrams* not being applied against independent claims 1 and 25, Applicant respectfully submits that *Abrams* does not remedy the above-described

deficiencies of RCAL. Thus, for at least the reasons that dependent claims 20 and 44 incorporate the features of respective allowable claims 1 and 25, dependent claims 20 and 44 are allowable as a matter of law.

IV. Official Notice

The Office Action has made the following allegations of Official Notice (Office Action, pages 14-16 for claims 11-15 and 35-39):

(Page 14, pertaining to the limitations now included in claims 1 and 25) Official notice is taken that deploying software applications by installing the software application using proxies, from a server, into a specified directory, version checking, etc. is old and very well known software distribution and/or installation approaches (e.g. plug-ins, add-ons, etc.).

(Page 15, pertaining to the limitations now included in claims 1 and 25) Official notice is taken that utilizing VPNs and dialing into Network Access Servers are old, very well known and very common mechanisms for connecting, communicating and interacting with applications, servers and/or systems, especially distributed and/or Internet based systems/methods (applications) wherein without such connectivity means the local user computer application lacks some or all of the functionality and/or data to perform the tasks/activities of that particular application.

Applicant respectfully traverses these allegations of well-known or Official Notice and submits that the subject matter pertaining to these claims should not be considered well-known. As provided in MPEP § 2144.03:

Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424, F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of

facts beyond the record which may be taken by the examiner must be “capable of such instant and unquestionable demonstration as to defy dispute” (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

As provided in MPEP § 2144.03 (emphasis added):

If applicant adequately traverses the examiner’s assertion of official notice, *the examiner must provide documentary evidence in the next Office action* if the rejection is to be maintained. See 37 CFR 1.104(c)(2).

Applicant respectfully submits that in the context of the claim language, such a finding of well known art is improper at least given the added complexity associated with such features as described in claims 1 and 25.

Accordingly, Applicant traverses the assertions with regard to well-known use. Because of this traversal, the Office must support its findings with evidence, or withdraw the well-known determination.

V. Canceled Claims

As identified above, claims 10, 16-19, 21-24, 34, 40-43 and 45-48 have been canceled from the application through this Response without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicant. Accordingly, reconsideration and allowance are requested. If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By: Jennifer Pearson Medlin
Jennifer Pearson Medlin
Registration No. 41,385

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CANTOR COLBURN LLP
20 Church Street, 22nd Floor
Hartford, Connecticut 06103
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No.: 23413